

Memorandum



Date: July 10, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Report of findings on H&R Paving, Inc. and H&J Asphalt, Inc. related to contract compliance with Community Small Business Enterprise and Responsible Wage and Benefit Contract Requirements

Supplement to
Agenda Item Nos.
8(P)1a, 8(P)1b & 8(P)1c

On May 15, 2007, the Governmental Operations and Environmental Committee (GOEC) requested information related to the compliance of H&J Asphalt, Inc. and H&R Paving, Inc. in regard to the Community Small Business Enterprise (CSBE) Program, §10-33.02, Code of Miami-Dade County and the Responsible Wages and Benefits Ordinances (Responsible Wages and Benefits), §2-11.16, Code of Miami-Dade County. Specifically, GOEC deferred four project change order items pending receipt of a report as to the small business compliance performance history of the referenced firms. This report provides a compliance history for contracts awarded to these two firms that included CSBE goals, as well as compliance with Responsible Wages and Benefits requirements.

Small Business Affairs (SBA) in the Department of Procurement Management is responsible for monitoring compliance with the County's small business programs for construction, goods and services and design. SBA monitoring in regard to the CSBE Program and the Responsible Wages and Benefits consists of compliance audits performed throughout the term of each project. These audits consist of field site visits, and review of Monthly Utilization Reports, certified payrolls and related project documents. The CSBE and Responsible Wages and Benefits requirements are included in all solicitation documents. This ensures that all firms interested in submitting bids are aware of what is expected in regard to the applicable ordinances. In addition, SBA participates in pre-construction meetings with awarded firms to ensure that prior to commencement of work the firms are again reminded of the wage and CSBE requirements. Once a firm has been issued the first Notice of Violation (NOV), SBA offers a free training session to assist the non-compliant firm to achieve compliance.

H&J Asphalt

H & J Asphalt (H&J) has been awarded ten projects as a prime contractor with CSBE goals since November 2001. The projects have CSBE goals ranging from 5 to 15 percent (Attachment 1). The established CSBE goals were met on two of the projects. Four projects are open and in progress. H&J has not met the required CSBE goal on four projects and will be required to perform CSBE make-ups on three projects. No goal makeup was required on the fourth project because final payment was made on the project prior to the issuance of the Notice of Violation. Prior to November 2006, goal deficits were calculated after final payments were made to CSBE firms. However, a County Attorney opinion clarified that NOVs may not be issued once final payments and certificates of completion are issued. As a result, the practice of waiting until the end of a project to issue a notice ceased, and staff began to confirm close to final utilization once work in the field is completed, and before final payment is made. This allows the accuracy of the CSBE make-up amounts to be determined. If after the project is closed out, the payments to CSBE firms increase, the deficit amounts are adjusted accordingly. Following are

Following are the three Public Works Department projects awarded to H&J where CSBE make-up goals are required:

1. **20040422 – Resurfacing (SIC 16)****
 - a) CSBE goal = 10%
 - b) CSBE goal achieved = 8.1%
 - c) CSBE deficit = \$17,928
2. **20040423 – Resurfacing (SIC 16)****
 - a) CSBE goal = 10%
 - b) CSBE goal achieved = 5.98%
 - c) CSBE deficit = \$36,897
3. **20030252 – QNIP IV, Resurfacing Zone 2**
 - a) CSBE goal = 5%
 - b) CSBE goal achieved = 4.13%
 - c) CSBE deficit = \$5,905

*** SBA denied a request from H&J to utilize Miami Striping & Signs on the projects due to CSBE program requirements that require the prime to utilize the CSBE submitted with the bid. CSBE participation would have been higher had SBA counted the dollars paid to the unapproved CSBE. This practice is in place to avoid bid shopping practices that are detrimental to small and emerging businesses.*

The total documented deficit in regard to the CSBE participation is \$60,730. In each of these three projects, the final scope of work was reviewed with the user department to confirm that the scope of work assigned the CSBE was, in fact, available and completed under the contract. Pursuant to the CSBE Ordinances, the applicable sanction is a make-up of double the dollar value of the deficiency on a current or future award. The double make-up goal due the County from H&J is \$121,460. In a meeting with SBA/DPM staff on June 1, 2007, H&J agreed to perform the make-up on any new awards. This is consistent with Code requirements and the current practice for all firms with deficits.

Since November 1999, H&J has been found in violation of the Responsible Wages and Benefits Ordinance on 12 occasions. The violations range from the firm's 'Failure to Post Wages at the Job Site' (five occasions); 'Submittal of inaccurate payrolls' (one occasion); and 'Underpayment of Employees' (six occasions). These wage violations are valued at \$5,803. As a result of enforcement efforts, the underpayments have since been recovered and the employees have been paid (Attachment 3). Therefore, H & J does not have any outstanding Responsible Wages and Benefits issues at this time.

As a result, it is recommended that the change orders for Project Nos. 20030252, 20040422 and 20040423 be approved. Responsibility determinations should be considered in the event of any future violations by this firm.

H&R Paving

Since September 1998, H&R Paving, Inc. (H&R) has been awarded 30 projects as a prime contractor with CSBE goals. These projects have CSBE goals ranging from five to 27 percent (Attachment 2). The CSBE goals were met on 14 of the projects and nine projects are open and considered in progress. On seven projects, H&R did not meet the required CSBE goal. Notices of Violation that included CSBE make-up requirements were issued on four of the seven

projects. Violations were not issued on three of these projects because final payment was made prior to issuance of the Notice of Violation. This is consistent with the referenced legal guidance. The four projects where the make-up of CSBE measures is required are:

1. **RM-6-01/03 – Pavement Repairs (SIC 16)**
 - a) CSBE goal = 14%
 - b) CSBE goal achieved = 4.6%
 - c) CSBE deficit = \$478,562
2. **693232Q – Local Drainage DERM contract**
 - a) CSBE goal = 10%
 - b) CSBE goal achieved = 0%
 - c) CSBE deficit = \$150,000
3. **20030256 – NE 1st Ave. and 2nd Ave. from NE 5th to NE 11th St.**
 - a) CSBE goal = 27%
 - b) CSBE goal achieved = 0%
 - c) CSBE deficit = \$243,818
4. **20030249 – QNIP IV Drainage (SIC 16)**
 - a) CSBE goal = 12%
 - b) CSBE goal achieved = 3%
 - c) CSBE deficit = \$85,172

On March 6, 2007, SBA staff issued a NOV to H&R for attempting to comply with the CSBE Ordinances through fraud, misrepresentation or material misstatement on the above referenced projects. H&R has appealed the NOV. This matter is currently scheduled to be reviewed by the Review Committee (RC) on June 13, 2007. The documented deficit in regard to the CSBE participation is \$957,552. Pursuant to the CSBE Program, the applicable sanction is a make-up of up to double the dollar value of deficiency on a current or future award. The double make-up goal due the County for H&R would therefore be \$1,915,104. Awards by the Public Works Department for H&R are currently being held pending the outcome of an appeal hearing.

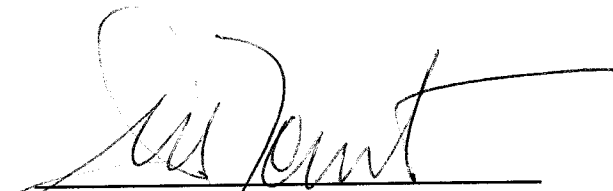
Since 1998, H&R has been found in violation of the Responsible Wages and Benefits Ordinances on 22 occasions. The violations range from the firm's 'Failure to Post Wages at the Job Site' (13 occasions); 'Underpayment of Employees' (two occasions); 'Submittal of Inaccurate Payrolls' (five occasions); 'Failure to allow interview of employees' (one occasion); and 'Failed to respond to Payroll Audit' on one occasion (Attachment 3). In October 2001, a settlement agreement in regard to wage violations based on a series of underpayments was entered between the Public Works Department (PWD) (copy attached) and H&R in the amount of \$55,000. Exact amounts of underpayment could not be determined by staff due to the lack of consistency and accuracy in the certified payrolls submitted by the firm. The amount was collected from the firm and placed in the Small Business Conference Trust Fund.

On May 23, 2007, SBA staff issued an NOV to H&R Paving after a comprehensive seven month review of five projects (Numbers 20040450; 20040506; 20040507; 20040508; and 20040509). H&R has submitted documents in the form of certified payrolls that do not accurately report hourly wages paid, hours worked and the names of employees that performed work on the projects. Based on a careful and detailed review and analysis of the documents submitted by the firm and other project documents, staff determined that H&R had underpaid employees on each of the projects. In accordance with the Responsible Wages and Benefits Ordinances, a stop payment action of H&R's final invoice has been issued to protect the back wages due to the employees. In a meeting with staff on June 1, 2007, legal representatives for H&R indicated

they will be appealing these findings. Subsequent to this meeting, a request was made by the firm to present evidence to support its certified payrolls. As a result of the above, staff does not recommend approval of the change order for Project No. 20040450, or the award of Project No. W-897 Division 1.

These enforcement efforts are a result of collaborative efforts between SBA and PWD staff. The compliance violations have been communicated to the referenced firms as the violations have been detected. Documentation has been provided to firm representatives, as well as the County issuing departments and project managers. Where there are ongoing compliance violations of County ordinances that ensure participation of small businesses and payment of wages in accordance with contractual agreements with the County, issues of responsibility will be closely reviewed by issuing departments prior to any new awards. In fact, the Responsible Wages and Benefits Ordinances require that bidders pay back wages and penalties owed on previous contracts prior to award of future contracts. The Code also requires that mandatory debarment be pursued when there is a fourth violation of the Responsible Wages and Benefits Ordinances.

During the May 15, 2007 discussions at the meeting of the GOEC, it was suggested that staff review the methodology for including CSBE participation goals on construction projects and determine whether the process used to establish these goals are appropriate. As part of the comprehensive review of our small business programs and services, on May 29, 2007 I directed staff to review the business processes and to develop methodologies and programs that better ensure meaningful participation of small businesses in County contracting. The primary focus of this effort is to strengthen our small business support function, revamp our procedures, and to set objective and achievable goals to maximize the participation of small and emerging businesses. Procedural changes and program improvements will be implemented as they are developed.



Assistant County Manager

Miami-Dade County
H&J Asphalt
Community Small Business Enterprise Goals on Awarded Projects
CSBE Compliance History

Project No.	Goal	Achieved	CSBE Utilized to Meet Goal	Project Complete	Goal Met	Deficit	Comments
629901Q CF002202	6% 15%	6% 17%	Miami Striping Inc. Cima Engineering 1% Straightline Engineering 18%	YES YES	<input type="checkbox"/> <input type="checkbox"/>		
20030252	5%	4.10%	G&B Striping 2.54% Striping 3.46%	YES	NO	\$5,905	\$45,205 (4.75%) in striping work was issued on this contract. Reported payments to CSBEs \$39,300 leaving a deficit of \$5,905 in participation.
20030253	5%	4.8%	G&B Striping	95%	NO	NO	PWD/paid H&J Prior to N.OV.
20040275	6%	3%	One Way Striping	42%	Open		
20040276	6%	1%	One Way Striping	47%	Open		
20040422	10%	8%	One Way Striping	YES	NO	\$17,928	
20040423	10%	5%	One Way Striping	YES	NO	\$36,897	
20040323	9%	0%	Cima Engineering 4% Straightline Engineering 5%	36%	Open		
20050155	8%	5%	G&B Striping 5.4% Striping 2.61%	86%	Open		

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H&R Paving Inc.
History of Compliance with Miami-Dade County's Community Small Business Enterprise Goals on Awarded Projects

Project No.	Goal	Achieved	CSBE Firm Utilized to Meet Goal	Project Completed	Goal met?	Deficit Amount	Comments
640336	6%	11%	Quality Paving Corp.	Yes	Yes		
671034	6%	6%	Quality Paving Corp.	Yes	Yes		
W-819A	15%	15%	Quality Paving Corp.	Yes	Yes		
W-819B	15%	15%	Quality Paving Corp.	Yes	Yes		
630013Q	6%	8%	Berlo Industries	Yes	Yes		
630014Q	6%	6%	Berlo Industries	Yes	Yes		
629902Q	6%	6%	G&B Striping	Yes	Yes		
RM-6-01/03	14%	4.6%	High-Tech Striping 7% Shasa Engineering 7%	Yes	No	\$478,862	(2) Per final Monthly Utilization Report total paid to H&R was \$5,137,911.57 of the \$6,000,000. CSBE Utilization should have been \$719,307. High Tech was paid \$240,444.98. Total deficit High Tech \$119,209 + Shasa \$359,653=\$478,562. Pending Appeal: Hearing date scheduled for June 13, 2007
CF002203	15%	0%	Shasa Engineering	Yes	No		(1)
630023	12%	0%	Shasa Engineering	Yes	No		(1)
693232Q	10%	0%	Shasa Engineering	Yes	No	\$300,000	(2) Pending Appeal: Hearing date scheduled for June 13, 2007
20030001	6%	6%	USA Striping	Yes	Yes		
CF005003B	15%	9%	Shasa Engineering	Yes	No		(1)
20030002	6%	6%	USA Striping	Yes	Yes		
20030003	6%	6%	USA Striping	Yes	Yes		
20030256	27%	0%	Shasa Engineering	Yes	No	\$487,636	(2) Pending Appeal: Hearing date scheduled for June 13, 2007
20030250	12%	13%	Pilome Engineering	Yes	Yes		
20030255	5%	3%	USA Striping	Yes	Yes		Project ended at 66% total work. The County Attorney has opined that contractors cannot be held to CSBE

Project Number	Percentage	Project Description	Yes	No	Comments
20030254	5%	USA Striping	Yes	Yes	Project ended at 42% total work. The project was not used to capacity due to the bituminous material shortage at the beginning of the year. The County Attorney has opined that contractors cannot be held to CSBE goal if project is not fully utilized.
20030249	12%	Shasa Engineering Pilome Engineering	Yes	No	(2) Pending Appeal: Hearing date scheduled for June 13, 2007

(1) Notice of Violation (NOV) was issued after final payment and Certificate of Final Completion is issued.

- (1) Notice of Violation (NOV) was issued after final payment and Certificate of Final Completion is issued.
- (2) Shasa Engineering was decertified due to its affiliation to H&R Paving, Inc. The decertification was upheld by the County Manager's Review Committee (RC) in a decision issued on 11/8/06. On 2/1/07 and 3/6/07 H&R was issued NOV's on these projects for attempting to comply with CSBE requirements through fraud and/or misrepresentation and for failure to meet the goal on projects where it submitted bids and other documents indicating Shasa would perform work to meet CSBE goals that was instead performed by H&R.

Miami Dade County
History of Contract Violations
April 16, 1990 through May 16, 2007

Date of Violation	Original Project Number	Contracting Department	Applicable Ordinance	Amount Identified (\$)	Amount Recovered (\$)	Violation
H & J Asphalt, Inc.						
15-Nov-99	630114Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	\$672.00	\$672.00	Underpayment of Employee
13-Jan-00	ER 12973 5644-2/00	WS	90-143 Responsible Wage & Benefits Ordinance	\$117.13	\$117.13	Underpayment of Employee
04-Feb-00	630114Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	\$143.82	\$143.82	Underpayment of Employee
01-Sep-00	S-684	WS	90-143 Responsible Wage & Benefits Ordinance	\$2,027.16	\$2,027.16	Underpayment of Employee
28-Mar-01	S-684	WS	90-143 Responsible Wage & Benefits Ordinance	\$1,128.58	\$1,128.58	Submittal of inaccurate payrolls
12-Jun-02	671479	PW	90-143 Responsible Wage & Benefits Ordinance			Underpayment of Employee
19-Nov-02	629901Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
26-Mar-03	629901Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
18-Aug-03	S-757	WS	90-143 Responsible Wage & Benefits Ordinance	\$1,713.98	\$1,713.98	Underpayment of Employee
18-May-04	629901Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
12-Apr-05	20030252	PW	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
19-May-05	20030253	PW	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
Total				\$5,802.67	\$5,802.67	
H & R Paving, Inc.						
17-Jul-98	662443	PW	90-143 Responsible Wage & Benefits Ordinance	\$163.19	\$163.19	Underpayment of Employee
24-Oct-00	630214Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	\$92.00	\$92.00	Underpayment of Employee
12-Apr-01	671036	PW	90-143 Responsible Wage & Benefits Ordinance			Failure to allow interview of employees
16-Oct-01	630013Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Submittal of inaccurate payrolls
16-Oct-01	630215Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	\$27,500.00	\$27,500.00	Submittal of inaccurate payrolls
21-Nov-02	629902Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
29-Jan-03	630158Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
26-Mar-03	629902Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
27-Mar-03	630158Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site
14-Jan-04	629902Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance			Failed to post Wages at the Job Site

Miami Dade County
History of Contract Violations
April 16, 1990 through May 16, 2007

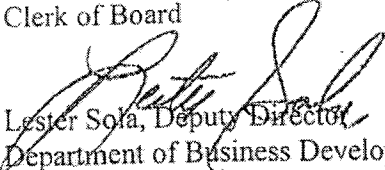
31-Mar-04	629902Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
13-Apr-05	20030249	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
21-Apr-05	20030002	PW	90-143 Responsible Wage & Benefits Ordinance	Submittal of inaccurate payrolls
21-Apr-05	CF005003 (B)	DE	90-143 Responsible Wage & Benefits Ordinance	Submittal of inaccurate payrolls
09-May-05	20030255	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
16-May-05	630023	PW	90-143 Responsible Wage & Benefits Ordinance	Submittal of inaccurate payrolls
20-May-05	629902Q	PW-Q	90-143 Responsible Wage & Benefits Ordinance	Failed to respond to Payroll Audit
02-Aug-05	20030255	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
13-Sep-05	20030254	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
16-Dec-05	20040506	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
31-Jan-06	20030255	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
02-Feb-06	20030256 (651007)	PW	90-143 Responsible Wage & Benefits Ordinance	Failed to post Wages at the Job Site
Total			\$55,255.19	\$55,255.19



MEMORANDUM

TO: Kay Sullivan, Director
Clerk of Board

DATE: October 22, 2001

FROM: 
Lester Sola, Deputy Director
Department of Business Development

SUBJECT: Filing of Signed Settlement
Agreement

The Department of Business Development (DBD) conducted a Comprehensive Compliance Review (CCR) of H & R Paving, Inc.'s (H&R) compliance with the Responsible Wages and Benefits (Ord. 90-143) and Community Small Business Enterprise (CSBE) (Ord. 97-52) Ordinances and their implementing Administrative Orders 3-24 and 3-22 (A.O.) as they apply to the following Public Works Projects:

630013Q Quality Neighborhood Initiative Bond Program (QNIBP) Resurfacing Countywide
630215Q QNIBP Sidewalk Countywide

Based on the findings of the CCR, DBD determined that H&R had substantially and repeatedly failed to comply with the requirements of Ord. 90-143. In order to conclude the matter in a manner satisfactory to all parties, DBD and H&R agreed to the terms of a proposed settlement letter, which was accepted by Public Works.

Please file the attached CCR report and settlement, signed by all relevant parties, with the Clerk of the Board. Should you have any questions, please contact Sheila K. Martinez, Director, Contract Review and Compliance Division, at (305) 349-5992.

c: Marsha E. Jackman, Director, DBD

RECEIVED
CITY OF SAN ANTONIO
OCT 23 2001



MEMORANDUM

TO: Aristides Rivera, Director
Department of Public Works

DATE: October 16, 2001

FROM: 
Marsha E. Jackman, Director
Department of Business Development

SUBJECT: Comprehensive Compliance
Review of Project Nos.
630013Q and 630215Q

RECOMMENDATION

The Department of Business Development (DBD) conducted a Comprehensive Compliance Review (CCR) of H & R Paving, Inc.'s (H&R) compliance with the Responsible Wages and Benefits (Ord. 90-143) and Community Small Business Enterprise (CSBE) (Ord. 97-52) Ordinances and their implementing Administrative Orders 3-24 and 3-22 (A.O.) as they apply to Project No. 630013Q Quality Neighborhood Initiative Bond Program (QNIBP) Resurfacing Countywide and Project No. 630215Q QNIBP Sidewalk Countywide. Please note Project No. 630013Q was awarded with a 6% CSBE subcontractor goal being met with Berlo Industries, Inc. (Berlo).

H&R has repeatedly violated the requirements of Ord. 90-143 on the referenced projects by submitting signed certified payrolls that are false. The payrolls omitted employees and workdays, and misclassified employees into classifications that receive less pay. There are over 40 instances where workdays are not included on certified payrolls and at least 277 instances where employees seen on the job site are not reported. H&R also failed to submit certified payrolls from its subcontractors as required by Ord. 90-143.

Through the adoption of Ord. 90-143, the County Commission mandated that employees working on county construction projects receive responsible wages and benefits, and that contractors accurately report and submit documentation to show they are in compliance with the ordinances and administrative orders. It is the responsibility of DBD to enforce the mandates of Ord. 90-143. Based on the findings of the CCR, DBD has determined that H&R has substantially and repeatedly failed to comply with the requirements of Ord. 90-143.

In order to conclude this matter in a manner satisfactory to all parties, DBD and H&R have agreed to the terms of the proposed settlement letter (Attachment D) and recommends acceptance of the settlement offer to Public Works. However, should H&R violate the terms specified in the settlement letter, DBD may recommend to Public Works the imposition of sanctions as governed by Ordinances 90-143 and 97-52.

BACKGROUND

Pursuant to A.O. 3-24 the successful bidders on construction projects valued greater than \$100,000 must:

- A. Pay their employees not less than the specified combined hourly wage rates and benefits applicable to the employee classification in which such employees are working on the project. Such payment obligations may be fulfilled by payment of wages, contributions to employees' benefit plans, payments in cash, or any combination thereof;
- B. Post in a visible place or the worksite (1) the schedule of the specified combined overall hourly wage rate and benefits for each applicable classification specified by the negotiated contract; (2) the amount of liquidated damages for any failure to pay such rates; (3) the name and address of the responsible County official to whom complaints of practices prohibited by this A.O. should be given; (4) make information available to the County on any and all wage and benefits documentation and information for review by the County including, but not limited to, canceled checks, bank statements and sufficient information to determine the cost of the plan for each employee in terms of actual benefits to the employee;
- C. Keep or cause to be kept, accurate written records signed under oath as true and correct showing the names, social security numbers, and craft classifications of all employees performing work on the contract, the combined dollar amount of all wages, any cost of contributions to benefits plans and any cash payments paid to each employee;
- D. Submit to the County a list of all subcontractors and the names and social security numbers of all employees thereof who performed work each day on the contract;
- E. Refrain from terminating, or otherwise retaliating, against an employee performing work on the contract even though a complaint of practices prohibited by this AO has been filed by the employee; and
- F. Allow compliance officer ready access to documents and employees for interviews without interference.

A bidder's failure to comply with the requirements of Ord. 90-143 may result in the imposition of one or more of the following sanctions: suspension of payment; work stoppage; termination, suspension or cancellation of contract; payment of two hundred dollars (\$200) as liquidated damages to the County for each employee for each day, or portion thereof, that such employee is paid less than the specified combined overall hourly wage rate and benefits; and/or debarment for a period of three (3) years.

Successful bidders on contracts with CSBE measures must comply with the requirements of Ordinance 97-52 and A.O. 3-22 and the Supplemental General Conditions included in their contract specifications. For the purpose of this report, DBD focused on only two requirements prime contractors must adhere to, specifically:

- Submission of Monthly Utilization Reports (MURs) on or before the tenth working day of each month listing all work performed in the past month by the CSBEs on the SOP and all expenditures requisitioned by and paid to the CSBE; and,
- Prompt review of billings from CSBEs and inclusion of same in any payment request to the County. Payment to CSBEs within two (2) business days of receipt of payment thereof.

A bidder's failure to comply with the requirements of Ord. 97-52 may result in the imposition of one or more of the following sanctions: suspension of payment; work stoppage; termination, suspension or cancellation of contract; and/or debarment for a period of up to five (5) years.

DEPARTMENT OF BUSINESS DEVELOPMENT'S COMPLIANCE REVIEW

DBD initiated a formal compliance review of the above projects as a result of DBD compliance staff observing several instances of employee underpayment and inaccurate payrolls on the following H&R projects: 630013Q, 630014Q, 630214Q, 630215Q, 640336, 671026, 671034, W-819A and W819B. An initial review of H&R's payrolls for these projects found signed certified payrolls that were missing employees and workdays, thus rendering them invalid and suspect. H&R's compliance with the Community Small Business Enterprise (CSBE) Ordinance (Ord. 97-52) was also in question since they were not responding to repeated requests for reports on the CSBE participation on those projects with goals.

Because of the large number of projects, DBD decided that each project would be reviewed on its individual merit; Project Nos. 630013Q and 630215Q were reviewed first. DBD issued concurrent reports to Public Works (PW), as the contracting officer, on March 29, 2001, summarizing its findings on both projects. (Attachment A) On May 1, 2001, H&R submitted its preliminary response to DBD's report and included a proposal for corrective action. (Attachment B). On June 22, 2001, DBD met with H&R to review the draft of the final report to which H&R submitted comments on June 29, 2001. Outlined below are the violations found on both of the referenced projects, as well as H&R's rebuttals to the cited violations, as appropriate. Additional comments from H&R followed the violation summary along with DBD's response to them.

Project No. 630215Q

Failure to Submit Certified Payrolls – (Ord. 90-143)

H&R failed to submit payrolls for 8/29/99 through 3/25/00, 4/23-29/00 and 11/5-11/00.

In its response of 5/1/01, H&R indicates all payrolls were submitted to DBD during the relevant time frame except for the payroll for the period of 11/5-11/00 in which "NO WORK" was performed on Project 630215Q. H&R claims they only had work on Project 630214Q during the week of 11/5-11/00. H&R further added that it can not reproduce the payrolls for this project for

the referenced periods because these records were destroyed in a flood in October 2000.

DBD finds evidence to the contrary. H&R indicates "NO WORK" performed for the week of 11/5-11/00, yet a QNIBP Daily Report for Project 630215Q, signed by an H&R representative, indicates a total of 85 linear feet of sidewalk **was** installed by H&R during that period, specifically on 11/7/00. (Exhibit 1)

In addition, H&R's claim that missing payrolls were submitted to DBD during the relevant time frame is incorrect since payrolls are submitted directly to the contracting department with every requisition for payment and not directly to DBD. Pursuant to H&R's contract with the County, H&R is required to keep all records related to the contract for three (3) years after its completion. In its 6/29/01 response, H&R produced photographs as proof of flood intrusion in its office and indicated that "certified payroll records for calendar year 1999, the period of January 1 – March 25, 2000 and the week of April 23-29, 2000 were lost in the major flooding of October 2000." DBD finds it questionable that only those specific payroll records it noted as missing were destroyed in the flood and not all records prior to October 2000. One month after the flood, H&R was able to provide DBD with pre-flood payroll records it requested for the month of August 2000. In its 5/1/01 response, H&R provided pre-flood payroll records for the months of July, August, September and October 2000.

Inaccurate Payrolls as to Days Worked – (Ord. 90-143)

H&R submitted certified payrolls indicating "NO WORK" was performed on thirteen (13) days, specifically 7/22/00, 9/21/00, 10/14/00, 10/16-20/00, and 12/4-9/00 (Exhibit 2); however, the PW project file contains log notes and concrete tickets clearly indicating work was performed and DBD interviewed three (3) H&R employees performing work on this project on 9/21/00. A revised payroll submitted by H&R on January 26, 2001, for the 10/16-20/00 period, was corrected to show that work **was** performed, nonetheless, it was still inaccurate as to employees on site as specified later.

In its response of 5/1/01, H&R again claims "NO WORK" was performed on 215Q on 10/14/00 and 12/4-9/00. It claims work was performed on 214Q instead. DBD does not refute that work was performed on 214Q, however, DBD has evidence that work was also performed on 215Q on the days in question. (Exhibit 3) H&R submitted revised certified payrolls for the week of 7/17-22/00 and 10/16-21/00 as Exhibit 2 to its 5/1/01 response. The revised payroll for 7/17-22/00 indicates work was only performed on one day that week, 7/17/00, when DBD has evidence that work was also done on 7/22/00. (Exhibit 4) The revised payroll for 10/16-21/00 is still missing H&R employee Angel Rios, a concrete finisher, interviewed by DBD on 10/17/00. Mr. Rios reported an hourly wage rate of \$12 with no health and pension benefits. Pursuant to the applicable wage schedule, Mr. Rios should have been paid \$12.87 per hour. (Exhibit 4) At the 6/22/01 meeting, H&R claimed they did not know Angel Rios and that he was never an employee of H&R. In its response of 6/29/01, H&R further states that "Angel Rios is not part of any work crew and for that reason does not appear on our payroll." However, Mr. Rios was observed and interviewed twice performing concrete finish work along with other H&R employees, specifically on 9/21/00 and 10/17/00.

Conflicting Payrolls -- (Ord. 90-143)

H&R submitted conflicting payrolls for the four-week period of July 31 to August 26, 2000. The first set of payrolls, submitted to PW with a requisition for payment, indicates work was performed during the specified period. The second set of payrolls, submitted in response to a request by DBD on February 23, 2001, indicates "no work" performed during the specified period. Although DBD gave H&R an opportunity to submit revised and corrected payrolls they are still inaccurate. There are three sets of conflicting payrolls for the period of August 7-12, 2000. (Exhibit 5)

Inaccurate Payrolls as to Number of Employees on Site -- (Ord. 90-143)

The number of employees recorded by PW's site inspector is greater than the number reported by H&R on its payrolls. DBD noted nine (9) instances where employees were omitted from certified payrolls submitted for December 27, 28 and 29, 2000. (Exhibit 6) H&R also omitted an employee interviewed by DBD on October 17, 2000, from its original certified payroll and also from the corrected payroll submitted on January 26, 2001.

Pursuant to PW's log notes and concrete delivery receipts from H&R, trucks have been used throughout the majority of this project, yet truck drivers do not appear on any payrolls from June 1999 through December 30, 2000. At a compliance meeting held on January 22, 2001, DBD discussed the payroll issue with H&R and asked them to submit revised payrolls that were true and correct. The payroll for the week ending October 21, 2000, was revised to include a truck driver, but as stated previously still omitted Angel Rios.

In the response on 5/1/01, H&R claims the source data used by DBD to determine the number of employees on site is false. H&R further added that they do not "pad their payrolls" with employees not assigned to specific projects and that it is a standard industry practice to move employees from one job site to another and to account only for actual hours worked on a specific project. H&R stated its employees are not underpaid and that it does not need to respond to allegations of unnamed individuals or truck drivers

Not only do PW inspector logs show different data than what was submitted by H&R, DBD interviewed employees that do not appear on original nor corrected payrolls. In reply to H&R "padding their payrolls" comment, DBD fails to find the relevance and has not explicitly nor implicitly accused H&R of padding its bills. Ord. 90-143 requires employees be paid responsible wages and benefits for every hour of work or fraction thereof on county projects. All employees must appear on payrolls regardless of how long they are on the site. Exhibit 16 includes 17 interview sheets of H&R employees that report underpayment on Project Nos. 630215Q and 630013Q. Of the 30 interviews conducted on Project No. 630215Q, 12 employees or 40% report underpayment at the time of the interview. 100% of the H&R employees interviewed by DBD on Project No. 630013Q, or 5 of 5 employees reported underpayment. In regards to allegations of unnamed employees or truck drivers, all information, names, etc. was made available to H&R's attorney through a public records request, wherein DBD provided copies of both project files.

Misclassification of Employees – (Ord. 90-143)

On October 17, 2000, DBD observed and interviewed Angel Iraheta, an H&R employee, who was performing concrete finish work. H&R's certified payrolls for the week ending October 21, 2000, classify Mr. Iraheta as a construction laborer at \$10.32 per hour when he should be classified as a concrete specialist at \$12.87 per hour.

In the response of 5/1/01, H&R states "Mr. Angel Danilo Iraheta has received pay in excess of his proper \$10.32 per hour rate for construction laborer. Almost no general contractor hires "specialists" for only one skill only...everyone pitches in according to his/her skill..." According to H&R, he earned \$1,726.34 the week ending 10/21/00 for 47 hours worked plus a bonus for production. Secondly, they add, DBD is trying to demand H&R classify employees at pay rates for which they are not licensed to perform. However, following H&R's argument that Mr. Iraheta performs a variety of tasks, he should be classified as a "specialist". Either way he is misclassified.

According to our records, Mr. Iraheta was observed doing concrete finish work and should be classified as laborer concrete specialist at an hourly rate of \$12.87 not \$10.32. Based on the above Mr. Iraheta earned approximately \$36 per hour. H&R employees have reported working in teams where one employee acts as an independent contractor and is paid for his work plus a team of helpers being paid by "piecemeal."

DBD has serious concerns as to H&R's assertions that DBD is demanding H&R to classify employees beyond their capabilities. Ord. 90-143 requires employees be paid the appropriate wage rate and fringe benefits for the classification of work actually performed without regard to skill. If H&R has non-licensed employees performing work that requires a license, then DBD recommends PW investigate immediately and act accordingly.

Employee Underpayment – (Ord. 90-143)

On a revised payroll for the week of 10/16-21/00, submitted by H&R as Exhibit 3 to the 5/1/01 response, concrete specialist S.P. Mickens was paid an hourly wage of \$10.32 when the Wage and Benefit scale requires that a concrete specialist receive \$12.87 per hour. Employees of H&R also report they are receiving less than the required wage rates and are not being paid overtime rates.

Two laborers and three truck drivers interviewed by DBD on February 23, 2001, stated they were paid \$7 per hour and one laborer reported his rate was \$8 per hour. The applicable wage schedule for this project requires that laborers receive \$10.32 per hour and truck drivers \$11.73 per hour. (Exhibit 16) Truck drivers interviewed on February 23, 2001 also reported they were not being paid overtime rates. In interviews conducted on Projects 630014Q and 630214Q, H&R's truck drivers also reported their pay rate at \$7 per hour. In interviews conducted by DBD staff as late as March 22, 2001, H&R employees on Project No. 640336 were still reporting underpayment.

In its response of 5/1/01, H&R states that the \$7 and \$8 pay rates reported by their employees are paid on private jobs and that DBD should refrain from "piling on" irrelevant and misleading field conversations. In the 6/29/01, H&R confirms that "truck drivers worked more than 40 hours" and that "overtime pay [is] due to each" of the truck drivers referenced above.

DBD field interviews are not mere conversations; they are mandated by Ord. 90-143 and are an integral part of DBD's compliance activities. Employees that reported underpayment of \$7 and \$8 per hour were interviewed on County projects and indicated receiving the same wages regardless of whether they are on county or private jobs for H&R.

Failure to Submit Certified Payrolls from Subcontractors -- (Ord. 90-143)

DBD discovered two subcontractors were on the job site, Caribbean Concrete and Artistic Concrete, as indicated in PW's log notes. H&R failed to submit certified payrolls for these firms.

In their 5/1/01 response, H&R denies Artistic Concrete was a subcontractor on this project. It does, however, admit that it failed to submit payrolls for Caribbean Concrete. Accordingly, it included Caribbean's payrolls as Exhibit 4 to their response.

DBD reviewed H&R's 5/1/01 response and withdraws its violation as to the use of Artistic Concrete. DBD reviewed Caribbean Concrete's payrolls and they appear to be inaccurate. Oscar Alarcon, a laborer interviewed on 1/19/01 does not appear. (Exhibit 7)

Project No. 630013Q

Missing Payrolls -- (Ord. 90-143)

On February 23, 2001, DBD requested certified payrolls from H&R for July 17, 2000 through September 9, 2000, and December 24, 2000 through present. H&R advised that payrolls were not available for the July 17 to September 9, 2000, period because work did not commence until the week ending September 16, 2000. Contrary to this, PW log notes and payroll information submitted by Berlo, a subcontractor to H&R, confirm work was indeed performed during this period by H&R and Berlo on the following dates:

H&R - July 18, August 4, 7-10, 29-31, and September 1, 5-8, 2000
Berlo - July 25, 2000.

In their response of 5/1/01, H&R states that PW requested that they only prep a site and show off equipment for a groundbreaking on 7/18/00. In the same response, H&R admits there was work prior to September 16th and includes certified payrolls for August and September 2000 as part of Exhibit 5 to their response. No payrolls for the 7/18 groundbreaking day were submitted.

PW logs for 7/18/00 indicate that 16 H&R employees were on site for three hours, from 11:30AM to 2:30PM, and a total of 212.07 tons of asphalt was used that day. H&R was paid by the County for the work performed that day but the payrolls are still missing. (Exhibit 8)

As to the payrolls submitted under the 5/1/01 response for August and September 2000, DBD reviewed and determined they are still not accurate. For example, H&R shows no work performed on 9/1/00 and PW inspector logs show an operator, driver and laborer performed edge pavement cleaning at various locations including 57th Terrace, 74th Court and 58th Street on that

day. (Exhibit 9) H&R was advised of the lack of compliance for the August and September 2000 payrolls in the June 8th draft report.

In its response of 6/29/01, H&R included a "revised" certified payroll for 9/1/00 and explained "the September 1, 2000 certified payroll information ... was omitted due to a collating error of counsel ." Had H&R failed to include the 9/1 payroll from their 5/1/01 response, DBD may have accepted the reason of a collating error by counsel since a collating error implies something was left out or missed when compiling the package. However, H&R submitted a signed, revised payroll for the week ending 9/1 and certified that no work was performed on 9/1.

Inaccurate Payrolls as to Days Worked – (Ord. 90-143)

H&R submitted certified payrolls (Exhibit 10) indicating no work was performed on the fourteen (14) days, specified below, while DBD site interviews and/or PW log notes and concrete tickets indicate work was performed.

September 11, 27 and 29, 2000
November 1-3, 6, 22 and 28, 2000

October 9 and 26, 2000
December 2, and 18-19, 21, 2000

In its response of 5/1/01, H&R states "the fourteen days noted by DBD [above] are padded by inclusion of the County's observed holiday October 9th, which was Columbus Day." H&R does, however, admit it provided DBD with false information in regards to the days noted above and included the missing payrolls as Exhibit 5. The 12/21/00 date was not included in DBD's draft of 7/5/01, however, DBD compliance staff interviewed 3 H&R employees on that day and felt it was necessary to add this information to this report. The revised payroll information submitted by H&R on 5/1/01 indicates there was still no work on 12/21/00.

The fact that October 9 is a county holiday is not relevant. PW inspector logs indicate H&R employees worked at Highland Lakes raising valves on the date in questions. (Exhibit 11)

Inaccurate Payrolls as to Number of Employees on Site – (Ord. 90-143)

The number of employees recorded by the PW's site inspector is greater than the number reported by H&R on its payrolls. DBD noted 268 instances where employees were omitted from certified payrolls submitted for the period of September 10 through January 6, 2001 (Exhibits 12 and 16)

Pursuant to PW log notes and concrete delivery receipts from H&R, trucks have been used throughout the majority of this project yet truck drivers do not appear on any payrolls from September 12 through December 23, 2000. H&R started including its truck drivers on payrolls after DBD began its inquiry, specifically on the payrolls for the weeks ending December 30, 2000 through January 20, 2001.

DBD interviewed 3 H&R employees on 12/21/00 whose names do not appear on original (Exhibit 10) nor revised certified payrolls for the week of 12/18-23/00, which reflect no work on

12/21/00. The revised payrolls were submitted by H&R as part of Exhibit 5 to the 5/1/01 response.

Failure to Submit Certified Payrolls from Subcontractors – (Ord. 90-143)

In a meeting held on March 6, 2001, Mr. Leonard Wooten of Berlo indicated that H&R neither instructed nor required his firm to keep or submit certified payrolls. Mr. Wooten submitted a copy of Berlo's certified payrolls at the meeting.

In its 5/1/01 response, H&R states that it is the responsibility of the contracting officer to remind them of the payroll requirements. H&R further add that DBD does not claim any employee of H&R or Berlo was underpaid at any time.

The Supplemental General Conditions included in the contract specifications/bid documents expressly state that prime contractors must submit payrolls for its firm and all subcontractors with every requisition. DBD staff also reminded H&R of this at the pre-bid and pre-work meetings held on March 17, 2000 and July 13, 2000, respectively. (Exhibit 13) DBD is unable to determine the amount of back wages or underpayment of H&R employees since payrolls provided are suspect.

Failure to Submit Monthly Utilization Reports – (Ord. 97-52)

Work began on this project on July 17, 2000. DBD made repeated requests to H&R for Monthly Utilization Report (MUR) both in writing on August 15, 2000, October 5, 2000, and January 30, 2001, and via telephone on October 16 and 23, 2000, and February 23, 2001. An MUR was not submitted until February 23, 2001, seven months after the project started.

In its 5/1/01 response, H&R states they submitted MUR's current through February 2001. It did, but only after multiple requests. Furthermore, H&R did not submit MUR's by the 10th of each month as required by Ord. 97-52. MURs must be submitted timely to allow the monitoring of the project as it progresses. MURs due on March 10 and April 10 were not submitted until June 4, 2001, and then only after H&R's attorneys were reminded of this requirement at a meeting on May 25, 2001.

At the 6/22/01 meeting with H&R and it's counsel, it was requested that DBD include the CSBE goal achieved to date. Pursuant to the May 14, 2001, MUR submitted by H&R it has requisitioned 41% of the contract amount and has achieved 5.2% of the 6% CSBE goal. (Exhibit 14)

Inaccurate MUR'S – (Ord. 97-52)

The MUR for the period of September 23 to November 12, 2000 reports receiving a requisition from Berlo for \$1,782.78 when in fact Berlo had requisitioned \$26,103.78 on November 6, 2000. The next MUR (November 13 to December 10, 2000) reports a payment to Berlo for the \$1,782.78 when in fact that payment was not made until January 5, 2001.

In its 5/1/01 response, H&R refutes the above and attributes it to DBD's misunderstanding of the local construction industry and ignorance of banking practices of the CSBE contracting community. This is not relevant. MURs reporting requisitions and payments to Berlo are inaccurate and misleading. The dates and dollar amounts reported by the prime do not match the supporting invoices, checks and other documentation. (Exhibit 14)

Prompt Payment – (Ord. 97-52)

On November 6, 2000, Berlo requisitioned \$26,103.78 from H&R. A payment of \$1,782.78 was made on January 5, 2001 – sixty days later. A second payment of \$21,710.63 towards this requisition was made on February 7, 2001 – 90 days later. H&R received payments from the County on December 4, 2000, January 16, 2001, and again on February 7, 2001.

In its 5/1/01 response, H&R refutes the above and provides a letter from Mr. Wooten stating he has an "excellent" relationship with H&R and that they have an "excellent payment record." While Mr. Wooten may be satisfied with H&R's payment record, it is not in accordance with Ord. 97-52. In a meeting with DBD staff on 3/6/01, Mr. Wooten reported the unpaid invoices detailed above.

Additional Comments in H&R's correspondence of 5/1/01

H&R maintains it has cooperated fully with DBD inspectors assigned to 215Q and 013Q, when in fact it has not been cooperative on any of its projects. It has failed to submit documents in response to requests for information; it did not allow an office audit as required by Ords. 90-143 and 97-52 for projects W-819A and W-819B. Location of work sites has not been forthcoming from the contractor and, on other jobs where H&R is performing work, specifically, Project Nos. 671036, 640336 and 630214, DBD staff has been denied access to the employees on the site. (Exhibit 15)

H&R argues it was a responsible bidder pursuant to County Ordinance No. 90-143 as it applies to "215 and 013Q". While H&R may have assured the County it would pay responsible wages at time of bid, they in fact, did not. When DBD stated H&R was not a responsible bidder it was based on both its current performance as a contractor, and for consideration for new work. While PW may have determined that H&R was in full compliance with the requirements of Ord. 90-143 at time of bid; they are currently not in compliance with the requirements of Ord. 90-143.

H&R claims to satisfy five of the six alphabetized "Responsibilities of a Successful Awardee" pursuant to A.O. 3-24. When in fact, they are in compliance with only two. The six responsibilities are delineated below and included in the "Background" section of this report:

- A. H&R did not pay employees according to wage schedule;
- B. H&R does not post wages on the job site and its employee's report they are unaware that Ord. 90-143 applies to the work they are performing, however, in its 6/29/01 response it indicates wages are posted at its offices.
- C. H&R does not keep accurate written records;

- D. DBD has never received a list of subcontractors on Project No. 630215Q and has found a contractor on site for which payroll information was not received;
- E. DBD has no evidence that H&R has retaliated against any employees in connection with the enforcement of Ord. 90-143 and,
- F. H&R has not allowed compliance officer ready access to documents and to interview employees without interference.

H&R states DBD's report failed to note its continuing effort to provide perfect payroll records and finds it "odd that no wage analysis or payment demand for back wages to allegedly deserving employees assigned to 215Q is presented". H&R further added that "DBD reported no instances of alleged employee underpayment or misclassification" on 013Q. DBD's response is that H&R did not submit payrolls in correct format. Moreover it is impossible to conduct a wage analysis on payrolls that are false and missing employees. Again, there were reports of underpayment on 40% of the field interviews or 12 of 30 taken for this project and on 100% or 5 of 5 of those for Project No. 630013Q. (Exhibit 16) DBD believes H&R employees are due back wages, but it is impossible to do a complete wage analysis on payrolls that are missing names of employees, classifications and hours worked.

DBD has interviews of H&R employees wherein underpayment is reported. (Exhibit 16) Because of the inability to calculate the appropriate back wages that are due to the underpaid employees, DBD must revert to the sanction of applying liquidated damages to the contractor. Pursuant to the contract language and Ord. 90-143, contractors may be fined liquidated damages in the amount of \$200 a day per each employee that is underpaid. DBD recommends assessing \$55,400, in liquidated damages based on the calculation of 277 [(215Q) 9 + (013Q) 265+3] instances of false and misleading payroll information multiplied by the set amount of \$200. While DBD believes strongly that there may be more instances, the 277 accounts are fully documented and supportable.

H&R accuses DBD of not adhering to "A.O. 3-24...Procedures for Examining Payroll Records [which] requires that successful awardees be provided written notice of alleged deficiencies and be directed to take corrective action." DBD did provide written notice to H&R outlining deficiencies in its payroll. DBD met with H&R and gave it an opportunity to take corrective action and submit revised payrolls. Revised payrolls were submitted by H&R, albeit still inaccurate. (Exhibits 6 and 17)

H&R criticizes DBD for relying upon personal interviews and records provided to it by Public Works, and complains that H&R has not been afforded an opportunity to 'cross examine' its accuser. Because DBD's process is not quasi-judicial, but executive in nature, there is no subpoena power nor cross examination of County staff permitted. DBD did rely on personal interviews by DBD staff obtained in the field as source for its investigation. Field interviews are mandated and hearsay is permissible pursuant to Ord. 90-143 and A.O. 3-24. (Exhibit 18)

Proposed Corrective Action by H&R as to Submission of Payroll Information

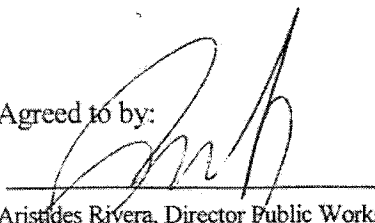
In its response of 5/1/01, H&R proposes to provide DBD with certified payrolls pursuant to A.O. 3-24. It indicates that it will prepare new forms and adopt firm operating procedures that strictly

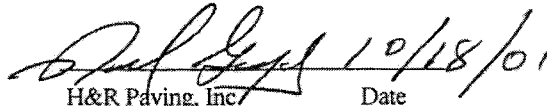
Memorandum to Aristides Rivera
October 16, 2001
Page 12

conform to the payroll requirements of A.O. 3-24. H&R also proposes to directly submit payrolls to DBD.

Form W-347, included in the Supplemental General Conditions of the contract specifications, is adequate if used properly. Moreover, contract specifications require that payroll be submitted to the contracting agency with every requisition. PW is reminded to not process a requisition without ensuring certified payroll are included.

DBD and H&R have agreed to the terms of a proposed offer of settlement attached hereto as Attachment D and recommends to Public Works the acceptance of same.

Agreed to by: 
Aristides Rivera, Director Public Works 10/17/01
Date


H&R Paving, Inc. 10/18/01
Date

Exhibits and Attachments on File with the Department of Business Development

- c: George Burgess, Assistant County Manager (w/attachment D only)
- Pete Hernandez, Assistant County Manager (w/attachment D only)
- Steve Spratt, Assistant County Manager (w/attachment D only)
- William Brant, Director, WASD (w/attachment D only)
- Christopher Mazzella, Inspector General (w/attachment D only)

COMPREHENSIVE COMPLIANCE REVIEW REPORT
FOR PROJECT NOS. 630013Q AND 630215Q

List of Source Documents



Exh. Description
No.

1. QNIP Daily report shows sidewalk work performed on 11/7/00.
2. Payrolls indicating no work on following dates: 7/22/00, 9/21/00, 10/14/00, 10/16-20/00, and 12/4-9/00.
3. H&R Weekly Report and Public Works (PW) log notes show work on 10/14/00. PW log notes and concrete delivery tickets showing work on 12/4-9/00.
4. Concrete tickets for Project 630215Q on 7/22/00.
Revised certified payroll week of 10/16-21/00 does not include Angel Rios.
Corresponding interview sheet for Mr. Rios dated 10/17/00.
Wage schedule for 2nd Quarter 1999.
5. Conflicting Payrolls for August 2000.
6. H&R payroll for 12/27-29/00 that indicate less number of employees on site than that reported by Public Works. Specifically, 12/27 H&R=4 vs. PW=6, 12/28 H&R=4 vs. PW=7, 12/29 H&R=0 vs. PW=4.
Public Works log notes indicating number of employees on site for 12/27-29/00.
7. Interview sheet for Oscar Alarcon of Caribbean Concrete, 1/19/01.
(See Ex. #4 to V. Screen letter included as Attachment B)
8. PW log notes showing work performed 7/18/00.
9. PW log showing work on 9/1/00.
(See Ex. #5 to V. Screen letter included as Attachment B)
10. Payrolls indicating no work on following dates: 9/11, 27, 29/00, 10/9, 26/00, 11/1, 2, 3, 6, 22, 28/00 and 12/2, 18, 19/00
11. PW log showing work at Highland Lakes on 10/9/00.
Revised payrolls for week of 10/9-14/00, which indicate no work on 10/9/00.
12. Spreadsheet comparing PW logs, certified payrolls, interviews and summary thereon.
13. Pre-work conference summary report and sign in sheet for Project No. 630013Q.

14. Summary of invoices compared to MURs and requisitions and corresponding documentation.

MUR, for period ending 5/14/01.
15. Notice of Violation regarding H&R's non-compliance with Ord. 90-143 for not allowing DBD access to employees for interviews.
Letter to H&R regarding office audit for project W-819A, W-819B.
16. Interviews showing underpayment and applicable wage schedule
17. 1/18/01 Notice of Violation and setting meeting to discuss H&R's non-compliance.
1/22/01 meeting summary.
1/26/01 letter from H&R responding to issues discussed at compliance meeting.
18. A.O. 3-24 Showing Hearsay is permissible and that interviews on job sites are required.

Attachment A	June 8, 2001 Comprehensive Compliance Review for Project No: 630013Q and 630215Q - Draft
	Mar. 29, 2001 Memoranda to A. Rivera from M. Jackman re: compliance issues for Project No: 630013Q and 630215Q
Attachment B	May 1, 2001 Letter to M. Jackman, from V. Screen responding to Attachment A above.
Attachment C	June 29, 2001 Letter to M. Jackman, from V. Screen responding to draft of Comprehensive Compliance Review for Project No: 630013Q and 630215Q, that includes a proposed settlement as Attachment A.
Attachment D	Settlement Agreement between DBD and H&R Paving.